IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2097 OF 2005

Nishan Singh Jaimal Singh Sohail ..Petitioner

Vs.

State of Maharashtra ..Respondent

None for the petitioner

Mr.D.S.Mhaispurkar, A.P.P. for the state

CORAM : J.N.PATEL &
SMT.ROSHAN S.DALVI, JJ.

DATED : 8TH SEPTEMBER, 2006

P.C.:

1. Heard.

2. Rule, returnable forthwith.

3. The Ld.A.P.P. files affidavit on behalf of the respondents. The same is taken on record.

4. The letter addressed to this court by the

prisoner through the Superintendent Kolhapur Central Prison impugning the order of punishing him was treated as Criminal Writ Petition and this court appointed Shri Motaria as an Advocate to represent his case. This court issued notice to the respondents in response to the show cause notice. Respondents have filed affidavit of Prakash K.Mane, Additional Senior Jailor attached to Bombay Central Prison, Mumbai.

5. The petitioner has been convicted and sentenced to suffer imprisonment for life by the Learned Special Judge of the Special Court constituted under TADA Act, at Nasik for having committed offences punishable under sections 3 and 4 of the said Act r/w section 120-B of the Indian Penal Code and under section 392 r/w sec.34, 302 r/w sec.34 of the Indian Penal Code, sec.3 of the Indian Explosive Act, sec.25 of Indian Arms Act, 307 r/w sec.34 of the Indian Penal Code.

6. The petitioner was lodged in Central Prison

Nasik Road, Nasik on 6.10.01. The petitioner was found in possession of Rs.1200/- in violation of Rule 17 of Discipline of Prisons Act, 1963 and, therefore, he was punished by way of forfeiture of remission for a period of 15 days by the Superintendent of Prison which is within his competence.

7. The petitioner was thereafter transferred to Ratnagiri Special Jail and was denied remissions and inspite of the fact that he has undergone punishment, he has been still retained in Ratnagiri Special Jail and therefore, it is the case of the petitioner that the punishment imposed upon him is contrary to the law and amounts to double jeopardy and therefore it deserves to be quashed and set aside by this court.

8. In the affidavit in reply filed by the respondents, it is placed on record that the petitioner has been punished for having committed offences on different counts. The first punishment

of forfeiture of remission for a period of 15 days arises out of violation of Rule 17 of the Discipline of Prisons Act, 1963 when the prisoner was found in possession of Rs.1200/- on his person. The second punishment to transfer him to Ratnagiri Special Jail came to be imposed after seeking approval of the Inspector General of Prisons, Maharashtra State, as it was found that he and his co-accused lodged in Nasik Central Prison, Nasik were not behaving properly and conducted themselves in an arrogant manner which was affecting the discipline of the prisoners. The Inspector General of Prisons vide order dt.24.1.02 transferred the prisoner Ratnagiri Special Jail and that is how he was kept at Ratnagiri Special Jail till 18.6.04 in accordance with the orders passed by the Inspector General of Police and thereafter transferred to Kolhapur Central Prison.

9. It is clarified that while a person is transferred on disciplinary ground to Ratnagiri Special Prison, he is not entitled to ordinary remission and, therefore, this is not a case of

punishing the prisoner twice for the same offence.

10. We are informed that now the petitioner has been transferred to Bombay Central Prison at Mumbai. We, therefore, find that the grievance made by the petitioner in the letter addressed to this court are without any basis and it is a misconception that the petitioner carried an impression that he has been punished twice for being found in possession of Rs.1200/-. Therefore, we do not find any merits in the matter. Petition is dismissed. Rule is discharged.

(SHRI J.N. PATEL, J)

(SMT.ROSHAN DALVI, J)